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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,572	07/05/2001	Victor Anatol'evich Nesterov	1202.013US1	1617
45346	7590	01/25/2005	EXAMINER	
HENSLEY KIM & EDGINGTON, LLC 1660 LINCOLN STREET, SUITE 3050 DENVER, CO 80264			WU, JINGGE	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,572

Applicant(s)

NESTEROV ET AL

Examiner

Jingge Wu

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) 17-21, 29 and 32-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-16, 22-28, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/18/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of claims 1-16 and 22-33 in paper No. 9 is acknowledged. Claims 17-21 and 34-66 are withdrawn from consideration.

However, claims 24-25, 29, 32-33 are corresponding the claims 17 and 20 that are withdrawn, therefore, claims 24-25, 29, 32-33 are also withdrawn. Accordingly, claims 1-16 and 22-28, 30-31 are now presented for prosecution.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5-6, 9-11, 14, and 26-28 are rejected under 35 U.S.C. 102(a) as being anticipated by US 6204858 to Gupta (a reference of PTO 1449).

As to claim 1, Gupta discloses a method of automatically identifying a red-eye defect in a region of an image comprising classifying pixels (red or not red) within the region according to values of a ratio of color channels (col. 3, lines 34-41 and col. 5 lines 15-40), red-eye defects being identified when values of the ratio exceed a predetermined value (k1g or k2b, col. 3 lines 34-38).

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As to claim 2, Gupta further discloses the method of claim 1 wherein a region of an image is first selected for analysis of values of color channel ratios to search for red-eye defects (col. 3, lines 34-41 and col. 5 lines 15-40).

As to claims 5-6, 14, the discussions are addressed with regard to claim 1, (e.g., object is the red pixel).

As to claims 9-10, Gupta further discloses the method of claim 5 wherein the boundaries containing at least all pixels of a red-eye defect are identified by classifying pixels within the region according to values of a ratio of color channels, red-eye defects being identified when values of the ratio exceed a predetermined value (col. 4 lines 42-59).

As to claim 11, Gupta further discloses the process of claim 1 wherein the classifying of pixels is performed without reference to a specific color in the red-eye defect (col. 4 lines 42-59).

As to claim 26, the claim is the corresponding computer claims to claim 1, the discussion is addressed with regard to claim 1.

As to claims 27-28, the claims are the corresponding computer claims to claims 9-10, the discussions are addressed with regard to claims 9-10.

4. Claims 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5432863 to Benati et al. (a reference of PTO 1449).

As to claims 15-16, Benati discloses method of selecting pixels from a digital image that has an eye defect, comprising circumscribing a region including all pixels of a portion of an image comprising an eye (fig. 9) and classifying pixels in this region into eye and non-eye pixels according to one of a plurality of pixel information channels, wherein the one channel is selected as the one of a plurality of channels that contains

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the largest number of pixels in said region (col. 5 lines 31-42) that exceeds an area threshold at a predetermined measure of central tendency computed for each respective channel (col. 6 line 15-col. 7 line 25).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4, 7-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta.

As to claims 12-13, Gupta mention the predetermined threshold (col. 4 lines 42-59) but does not mention the classification is effected by a procedure selected from the group consisting of segmentation, iterative segmentation, and iterative segmentation.

Examiner takes Official Notice that those feature are notoriously well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use various segmentations to classify the pixels so as to identify accurately the red-eye pixels.

As to claims 3-4 and 7-8, Gupta does not mention ratio of lightest channel and darkest channel.

Examiner takes Official Notice that those feature are notoriously well known in the art.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to use ratio to classify the red-eye pixels so as to identify accurately the red-eye pixels.

7. Claims 22-23 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta in view of Benati.

As to claims 22-23, Gupta does not mention selecting largest pixel group to be eye region.

Benati, in an analogous environment, discloses all features (see claim 15-16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Benati in the method of Gupta include in order to accurately classify the eye pixels. Doing so would improve efficiency and accuracy of the method of Gupta.

As to claims 30-31, the claims are the corresponding computer claims to claims 22-23, the discussions are addressed with regard to claims 22-23.

Contact Information

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8. Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner

